

Serial No. 09/992,861  
Kelders et al.

Docket No. H 5322 US

REMARKS

Claims 1-20 were pending. Claims 2 and 9 have been canceled, leaving claims 1, 3-8, and 10-20.

Claim 10 was rejected as non-enabled in that the specification allegedly does not teach one of skill how to make a dispenser wherein each sidewall may have more than one depression for placement of a finger or thumb. Applicants respectfully traverse. In one embodiment of the invention, depicted in figures 4-7, each dispenser side wall has a depression for placement of a finger or thumb to aid use of the device. Of this embodiment applicants further disclose that one of skill "will recognize, that other shapes or devices located on the housing (12) could be used in addition to, or alternatively to" those depicted to aid in gripping the device. Spec. at page 13, lines 10-14. Thus claim 10 as presented is fully enabled by the specification, and its rejection as lacking enablement should not be maintained.

Claim 1 was rejected as indefinite in that "the tape" in the last line lacked antecedent basis. "Tape" has been deleted and material inserted in its place, consistent with the preamble and remaining elements of the claim. Support for this amendment is found at page 2, line 18 of the specification. It is believed no further ground exists for rejecting claim 1 as indefinite.

Claim 4 was rejected as indefinite in that "the

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discharge end of the cover piece" lacks antecedent basis. Applicants respectfully traverse. Claim 1, from which claim 4 now depends, recites an apparatus "wherein **the cover piece has** a top, two opposing side walls and a **discharge end.**" Thus, claim 1 provides antecedent basis for recitation of "the discharge end of the cover piece" in claims 4 and 6.

Claim 5 was rejected as indefinite in that "the discharge end of the roll holding piece" lacks antecedent basis. Applicants respectfully traverse. Claim 1, from which claim 5 now depends through claim 4, recites an apparatus "wherein **the roll holding piece has** a bottom, two opposing side walls, and a **discharge end.**" Thus, claim 1 provides antecedent basis for recitation of "the discharge end of the roll holding piece" in claim 5.

Claim 17 was rejected as indefinite in that it was unclear which discharge end was being referenced. Claim 17, however, does not recite a discharge end. It does recite the discharge opening, which is introduced in element (a)(v) of claim 16. Since this is the only prior reference to a discharge opening, it is not understood how any confusion can arise as to which discharge opening is being referred to. Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 1-6, 9-10, 12-14, and 16-20 were rejected as anticipated by Taylor U.S. 2,584,065. Claims 1-3 and 16-20 were rejected as anticipated by Pearson U.S. 3,850,779.

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Claims 11 and 15 were rejected as obvious over Taylor in view of Link U.S. 3,895,059. Claims 7-8 were rejected as obvious over Taylor alone. Claims 7-10 were rejected as obvious over Pearson alone. Lastly, claim 11 was rejected as obvious over Pearson in view of Link. Applicants respectfully submit that these rejections should not be maintained over the claims as amended.

As amended, claims 1, 12, and 16 incorporate the limitations of claim 9, wherein the top of the cover piece has at least one depression for placement of a finger. Contrary to the Examiner's assessment of Taylor, this reference does not teach these elements in its Figures 2 and 3.

As can be seen most clearly in Taylor's Figures 4 and 5, in the space on the cover piece 2 where the Examiner would have one place a finger or thumb, the feed roller 9 extends through a hole in the cover piece 2. Thus, placing a finger or thumb in this depression would stop the feed roller and impede discharge of the tape. Thus Taylor does not teach or suggest a depression for placement of a finger or thumb on top of the cover piece when holding the device, as claimed. As to Claim 14, Taylor's Figure 3 does not show depressions for gripping. It shown the end view of a long, narrow, ornamental groove along the top sides of the cover piece that could not possibly aid an operator in gripping the device. Thus claims 1, 3-8, and 10-20 as amended should not be rejected over Taylor alone or in combination with Link, which does not remedy the deficiency

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of the primary reference, Taylor.

Likewise, Pearson U.S. 3,895,059 is deficient with respect to the claimed depression on the top of the cover piece to aid in handling the device. The Examiner's bald assertion that such depressions are "conventional" does not relieve the P.T.O. of its burden to produce evidence on the record of such teachings. Moreover, there must be an objective suggestion in the art to modify or combine such teachings. Neither has been produced here. There is no reference showing the claimed depression, including, as demonstrated above, Taylor. No teaching has been cited in any reference that would suggest the desirability of a depression on the top cover piece as claimed. Therefore neither Pearson alone nor in combination with Link establishes a basis for rejecting the claims as amended herein.

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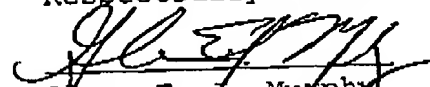
CONCLUSION

OFFICIAL

Applicants request that the shortened statutory period to respond to the Office Action, mailed February 6, 2003, be extended three months from May 6, 2003 to August 6, 2003. Please charge our Deposit Account No. 01-1250 in the amount of \$930.00 for the extension fee. Order No. 03-0400.

Should any fees be due for entry and consideration of this Amendment that have not been accounted for, the Commissioner is authorized to charge them to Deposit Account No. 01-1250.

Respectfully submitted,



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